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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,775	01/16/2004	Maria Masae Kulas	CJK-14	8139

36707 7590 04/28/2005

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EXAMINER

GELLNER, JEFFREY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/759,775

Applicant(s)

KULAS, MARIA MASAE

Examiner

Jeffrey L. Gellner

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. 4/20/05
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet.

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 1-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions. Applicant timely traversed the restriction (election) requirement in the reply by telephone interview on 4 April 2005. Any response to this office action should include Applicant's reasons for the traversal of the restriction requirement.

### ***Specification***

The disclosure is objected to because of the following informality:

For Figs. 10 and 11, figures the Examiner considers drawn to the elected invention, the "first and second rods" are not referenced in the specification.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-17 are rejected under 35 U.S.C. §102(b) as being anticipated by Moffitt (US 113,323).

As to Claim 12, Moffitt discloses an apparatus ("apparatus" of Figs. 2 and 2) for securing a windscreen ("awning" of title) to a support stake (stake below "3<sup>rd</sup> attachment portion" of Figs.

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1-3), the windscreen including first and second rods (rods above “attachment portions” of Figs. 1-3) attached to a flexible sheet (substituting --sheet-- for “material” as per Applicant’s request in the telephone interview of 4 April 2005), the stake suitable for being vertically supported by ground, the apparatus comprising first and second attachment portions (“attachment portions” of Figs. 1-3) for attaching the first and second rods (shown in Figs. 1-3) so that the rods are held adjacent and substantially parallel (shown in Fig. 3) to each other; and, a third attachment portion (“3<sup>rd</sup> attachment portion” of Figs. 1-3) coupled to the first and second attachment portions, wherein the third attachment portion allows mounting of the apparatus to the stake (Figs. 1-3).

As to claim 13, Moffitt further discloses the first and second rods held by the apparatus in a position above and substantially parallel the stake (Figs. 1 and 3).

As to claim 14, Moffitt further discloses the first and second rods held in line with a length of the stake (Figs. 1 and 3)

As to claim 16, Moffitt further discloses the apparatus removably coupled to the stake.

As to claim 17, Moffitt further discloses an attachment portion with a hole (“attachment portions” show holes in Fig. 2).

### ***Claim Rejections - 35 USC §103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over Moffitt (US 113,323).

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As to claim 15, the limitations of Claim 12 are disclosed as described above. Not disclosed is the apparatus integral with the stake. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Moffitt by making the apparatus integral with the stake so as to improve strength of the unit.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Daniel, Marino et al., Baldwin, and Kobayashi disclose in the prior art various apparatuses with three attachment portions. Ritter disclose in the prior art an apparatus with similar structure.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 571.272.6887. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 571.272.6891. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'J. L. Gellner', with a stylized flourish at the end.

Jeffrey L. Gellner  
Primary Examiner

Continuation of Attachment(s) 6). Other: a copy of Moffitt (US 113,323) showing the Examiner's designations for the three portions.